

December 10, 2014

Issue Paper: General Conformity Ex. 5 - Deliberative Process **in the Upper Green River Basin**

Background

- General Conformity, CAA section 176(c) and 40 CFR 93, Subpart B, applies in both nonattainment and maintenance areas.
- Wyoming Upper Green River Basin (UGRB) was designated nonattainment for the 2008 8-hour ozone NAAQS in May 2012. A one year grace period, before the general conformity requirements would apply, began when designations became effective in July, 2012.
- Wyoming DEQ (WDEQ) revised the State's general conformity rule to incorporate the latest EPA general conformity rule revisions (as promulgated in April, 2010). EPA approved Wyoming's general conformity SIP revision with a final rule that published on August 15, 2013; effective September 16, 2013.
- Our approval of the revisions to Wyoming's general conformity rule also included the provisions that allowed exemption of emissions from a general conformity analysis and/or conformity determination from stationary sources with a WDEQ-issued major or minor NSR or PSD permit.

Key Issues:

1.)

Ex. 5 - Deliberative Process

2.)

NEPA Issues/Activities

- **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

Our comments were sent to WY-

BLM's Jim Speck on 1/10/14. Important comments were:

- “We recommend that the BLM and Encana ensure that WDEQ permitted emission sources meet the stationary source requirements of the general conformity exemption described in WAQSR Chapter 8, Section 3(c)(iv)(A). **We note that WDEQ issues WAQSR Chapter 6 air quality permits for sources that do not qualify as stationary sources for the purposes of WAQSR Chapter 8, Section 3(c)(iv)(A). EPA has previously advised both the BLM and State with our concerns regarding this issue.** [*This comment was in regard to the BLM improperly using the general conformity permit exemption to remove emissions from a general conformity analysis.*]
- “It is indicated that the BLM must include a conformity determination with its Record of Decision (ROD) for the alternative selected. As stated, this timing for the conformity determination is certainly allowed; however, **we recommend that consideration be given to providing the conformity determination earlier perhaps concurrently with the Final EIS.**” [*EPA made this comment to help identify potential concerns with a conformity analysis or conformity determination.*]

Ex. 5 - Deliberative Process

- The State has taken a formal position by way of their January 31, 2014 letter (copy attached), from Steve Dietrich (WDEQ) to Charis Tuers (BLM), which specifically states the WDEQ's position on this issue:

“Sources with permits issued under the authority of Wyoming's EPA approved new source review permitting program (WAQSR Chapter 6, Section 2) are exempt from a general conformity determination.”

Ex. 5 - Deliberative Process

Next Steps

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Options:

Ex. 5 - Deliberative Process